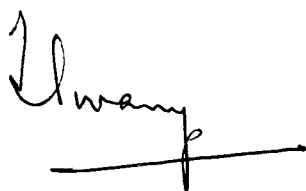
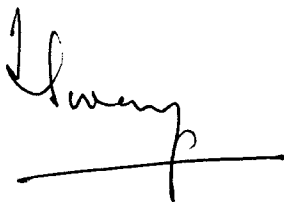


2. The background of the case is as under:

- (i) The Appellant has an industrial connection for 374 KW under the LIP category with K. No. 1210 8000 0102, from November 2004. On 28.06.2006, the Appellant informed the Business Manager KCC-BYPL in writing that for the connection energized in November 2006, the lock-in-period of two years shall be completed by November 2004, and he is not in a position to utilize the load of 374 KW as industrial activities have been reduced. The Appellant requested the Respondent to treat this as a notice for termination of the agreement of LIP (HT connection), and on expiry of the notice period, the supply be converted to SIP category on LT, and HT meter be removed.
- (ii) With reference to the above request for termination of the agreement of the LIP connection, the Business Manager, KCC informed the Appellant on 03.07.2006 that as per Clause 20 of the agreement executed by the Appellant with BSES, six calendar months notice is required for termination of the agreement, and advised the Appellant to submit the following documents:
 - (a) DD / pay order of Rs.500/- towards inspection fee.
 - (b) Copy of the latest paid bill of the existing connection.
 - (c) Details of installed / connected load.

A handwritten signature in black ink, appearing to read 'Ilwamy', with a horizontal line drawn underneath it.

- (iii) On 20.11.2006, the Appellant again informed the Business Manager, KCC, that the lock-in-period of two years had already been completed and requested for reduction of the load from 374 KW to 94 KW, as he did not want to renew the agreement of the HT connection.
- (iv) On 27.11.2006, the Business Manager, KCC, informed the Appellant that as per record there were heavy dues existing against the existing LIP connection and he was advised to liquidate the dues against the K. No. 1210 8000 0102 and to submit a copy of the latest paid bill / no dues certificate.
- (v) The Appellant's father Shri Vinod Aggarwal vide his letter dated 16.03.2007 informed the Business Manager, KCC, that the supply of another K. No. 1210 8000 1040 registered in the name of Shri Vikas Aggarwal in the same premises was earlier disconnected on 22.11.2004 and all dues were cleared up to the date of the disconnection. The KCC department raised a supplementary demand of Rs.11,28,987/- for the period 26.01.2002 to 22.11.2004 against the K. No. of the Appellant instead of raising the demand against K. No. 1210 8000 1040 already disconnected. Shri Vinod Aggarwal father of the Appellant offered to pay the supplementary demand if it is transferred to its original K. No. and LPSC is withdrawn, referring to the discussions on the subject in the office of the Business Manager, KCC.



- (vi) The Appellant also informed the Business Manager, KCC vide letter dated 16.03.2007 that after transfer of the dues against the disconnected connection of Shri Vikas Aggarwal to his K. No., if there is any balance payable against the Appellant's connection, he agrees to pay the same for the period up to November 2006, when the notice period for reduction of load had matured.
- (vii) The Appellant vide his letter dated 06.04.2007 informed the Business Manager, KCC that the dues of Rs.11,28,987/- against K.No. 1210 8000 1040 had been paid by his brother Shri Vikas Aggarwal. The Appellant had also arranged on account payment of Rs.3,50,000/-. Since dues against both K. No. 1210 8000 0102, K. No. 1210 8000 1040 had been cleared, Appellant requested the Respondent to disconnect the HT supply.
- (viii) The Business Manager, KCC vide his letter dated 03.07.2007 informed the Appellant that the Competent Authority has approved the reduction of load from 374 KW to 102 KW with contract demand from 255 KW to 61 KW w.e.f. 24.06.2007 i.e. after completion of two months notice, and completion of commercial formalities.
- (ix) The Appellant was further advised to complete the following formalities:

- (i) Remit the DD / Pay order of Rs.73,067/- in favour of BYPL towards charges for replacement of metering cubical according to load.
 - (ii) Copy of latest paid bill / no dues certificate and;
 - (iii) NOC on stamp paper of Rs.10/- for removal of existing four no. CT meters along with paid bill copies of the same.
- (x) The Appellant informed the Business Manager, KCC vide letter dated 25.06.2007 that dues upto May 2007 bill of Rs.2,73,809/- have been paid under protest, to avoid the dispute about completion of commercial formalities.
- (xi) The Appellant thereafter filed a complaint before the CGRF on 04.10.2007 on the following two issues:
- (i) Refund of the illegitimately recovered cost of metering cubical and;
 - (ii) Refund of minimum charges from December 2006 onwards.
- (xii) The CGRF in its order dated 20.12.2007 concluded that the Appellant had not fulfilled the required commercial formalities for reduction of load along with his notice dated 29.06.2006. This was done only on 24.04.2007 when the Appellant formally applied for reduction of load and completed all the commercial formalities alongwith payment of arrears on 16.07.2007. The Respondent company has therefore rightly levied the minimum

charges. The CGRF also directed that the cost of metering cubical is not chargeable from the Appellant as the same is not part of the service line.

Not satisfied with the orders of CGRF, the Appellant has filed this appeal.

3. After scrutiny of the appeal, the records of the CGRF and the reply / comments submitted by the Respondent, the case was fixed for hearing on 14.03.2008.

On 14.03.2008, Shri O. P. Ahuja was present on behalf of the Appellant and the Respondent was present through Shri Rajeev Ranjan and Shri Arvind Rauthan Manager Commercial, KCC, along with Shri Abhinav Sharma, AM Commercial, KCC.

4. Both the parties were heard. The Appellant argued that his case for reduction of load from HT to LT was unnecessarily held up as dues pertaining to another disconnected connection were transferred to his K. No. The Respondent argued that earlier there were four LT connections in the said premises and three LT connections were disconnected when the load of the Appellant was enhanced to 374 KW in November 2004. After disconnection of the LT connection of the Appellant's brother Shri Vikas Aggarwal, a supplementary demand was raised pertaining to this connection against the connection of the Appellant, on the ground that the earlier LT connections stand amalgamated into one HT connection of the

Appellant. The Appellant argued that they had never made any request for amalgamation of the connections and the Respondent's action was therefore arbitrary.

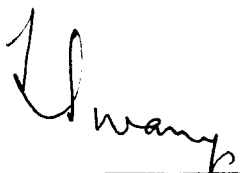
5. The Respondent stated that the Appellant was informed that no action can be taken simply on an application for reduction of load without submission of the test notice and without completion of other formalities. A copy of the test report dated 27.04.2007 was produced by the Respondent. However, the Appellant argued that earlier no documents were accepted from him, for want of clearance of dues.
6. Based on the submissions made by both the parties, it is observed that :
 - (i) As per the DERC Regulations 2002, Chapter 3, Section 8 the application for load reduction shall be accepted only after two years from the original sanction and after verification by the licensee who shall sanction the reduced load within 10 working days from the date of acceptance of the application for reduction of load. There is no condition stipulated that the pending dues are to be recovered before reduction, presumably as the connection will continue whether as an HT or LT connection, and the dues can be recovered as per the procedure laid down in the law.

- (ii) It is observed from the documents provided that the test notice dated 27.04.2007 signed by the Appellant, was submitted and an agreement was executed on Non-Judicial stamp paper of Rs.10/-, between the Appellant and the Respondent that reduction of load from 374 KW to 102 KW is agreed to w.e.f. 27.04.2007.

In view of the above, it is decided that the load reduction may be deemed to have been effected from the date of the test notice and the date of execution of the agreement between the parties that is w.e.f. 27.04.2007.

The order of the CGRF is modified to the extent above.

24th March 2008.


(SUMAN SWARUP)
OMBUDSMAN